

STATE OF MICHIGAN
CIRCUIT COURT FOR THE COUNTY OF MACOMB

In Re Parenting Time Mediation
_____ /

Administrative Order 2005-02

MCL 552.511b allows a parent who has a right to interact with a child under a custody or a parenting time order to file with the Friend of the Court a written complaint that states specific facts constituting a custody or parenting time order violation. The 16th Judicial Circuit Court of Michigan has determined that alternative dispute resolution (ADR), specifically mediation, can serve a useful purpose in resolving parenting time disputes.

Beginning June 1, 2005, until further order of the Court, the 16th Judicial Circuit Court for the state of Michigan may refer post-judgment parenting time disputes to the Macomb County Resolution Center for mediation. Only those individuals entitled to Friend of the Court services will be referred for mediation to the Macomb County Resolution Center. This local administrative order describes the scope and applicability of the rule, referral for mediation, qualifications to mediate and mediation procedures.

The Presiding Judge of the Family Division in consultation with the Macomb County Resolution Center shall review the mediation outcomes each quarter and recommend any changes to the Chief Judge.

This administrative order is issued in accordance with MCL 552.641.

IT IS ORDERED:

1) SCOPE AND APPLICABILITY OF RULE

All domestic relations cases as defined in MCL 552.502(1) are subject to mediation under this rule, unless otherwise provided by statute or a court rule. Domestic relations mediation is a nonbinding process in which a neutral third party facilitates communication between parties to promote settlement. This administrative order only applies to post-judgment parenting time disputes.

2) FRIEND OF THE COURT ENFORCEMENT OF PARENTING TIME VIOLATIONS

If a parent who has a right to interact with a child submits a written parenting time complaint that states specific facts, the Friend of the Court shall send both parties a written notice that requires the parents to respond in writing to the complaint within 21 days of mailing. If a party to the parenting time order does not respond in writing to the Friend of the Court within 21 days after the office sends the notice to contest the application of the makeup parenting time policy, the Friend of the Court makeup parenting time policy will then be applied.

3) REFERRAL TO MEDIATION

A. If a party makes a timely response to contest the application of the makeup parenting time policy, the Friend of the Court may refer the case to the Macomb County Resolution Center unless the following conditions are present:

1. Child abuse or neglect.

2. Domestic abuse.
 3. Inability of one or both parents to negotiate for themselves at the mediation.
 4. Reason to believe that one or both parties health or safety would be endangered by mediation.
 5. Other good cause shown as determined by the Friend of the Court.
- B. The Friend of the Court may refer a case that does not have any of the foregoing conditions to the Macomb County Resolution Center for mediation before using any other enforcement procedures.
- C. The Friend of the Court may decline to refer the parenting time complaint to the Macomb County Resolution Center if circumstances are present as provided in MCL 552.641(2)(a)-(c).
- 4) TO OBJECT TO A PARENTING TIME DISPUTE BEING REFERRED TO THE MACOMB COUNTY RESOLUTION CENTER

A party must file a motion with the Court. The mediation shall not be held until the motion is decided by the Court.

5) MEDIATION PROCEDURES

- A. The Friend of the Court will contact the Macomb County Resolution Center to request that a mediation session be scheduled. The Macomb County Resolution Center will accept all cases referred by the Friend of the Court except those which it discovers that aforesaid exemptions in Paragraph 3(A)(1-5) apply. These exempt cases will be referred back to the Friend of the Court.
- B. The Friend of the Court will send the parties a notice that their parenting time dispute has been referred to the Macomb County Resolution Center pursuant to this Court's order and that they will be contacted by the Macomb County Resolution Center regarding the date, time, and location of the mediation session.
- C. The Macomb County Resolution Center will assign the first available mediator or a co-mediation team that meets the qualifications listed below and who have not had prior involvement with the parties to mediate the parenting time dispute.
- D. Any communications between the mediator and a parent during mediation are confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted into evidence in any proceedings nor used by the Friend of the Court for any investigative or enforcement procedure, or during other mediation. The same protection shall be given to communications between the parents in the presence of the mediator.
- E. If the parties agree to makeup parenting time, the agreement will be written into a memorandum of understanding (MOU) to be signed by the parties and the

mediator. This MOU will be forwarded to the Friend of the Court. The Friend of the Court will take necessary steps to modify the Court order.

- F. If an agreement is not reached during mediation, the parenting time dispute will be referred to the Friend of the Court to apply one of the enforcement procedures provided in MCL 552.641.

6) PARTIES FAILURE TO APPEAR

- A. If the party who has allegedly denied parenting time fails to appear for the mediation, the Macomb County Resolution Center will notify the Friend of the Court. The Friend of the Court will schedule the matter for a civil contempt hearing.
- B. If the party who filed the complaint fails to appear for the mediation, the Macomb County Resolution Center will notify the Friend of the Court. The Friend of the Court will note the non-appearance of the complaining party, and no further action will be taken.

7) MEDIATOR QUALIFICATIONS

A post-judgment parenting time mediator must complete training approved by state Court Administrative Office and meet the qualifications of the Macomb County Resolution Center.

VI. Effective Date

This order shall take effect on June 1, 2005

Antonio P. Viviano,
Chief Judge

Dated: